

**REMARKS**

Reconsideration and allowance of the above-identified application are respectfully requested. Claims 1-3, 6, 7, 12, 17, 23, 24, 34, 35, 37 and 40-45 are now pending, wherein claim 44 is withdrawn and claim 45 is new.

Claim 44 was withdrawn from consideration as being directed to a different invention from the originally presented claims. Applicant respectfully submits that claim 44 should be searched and examined in view of new dependent claim 45. Specifically, claim 45 depends from claim 1, and thus is subject to search and examination. Claim 45 recites the use of a vector of proportions to select an action in a similar manner to that of withdrawn claim 44. Because dependent claim 45 and withdrawn independent claim 44 recite similar subject matter, withdrawn claim 44 is not a different embodiment from that of claim 1. Additionally, there is no burden to search and examine claim 44 because new dependent claim 45, which recites similar subject matter, will be searched and examined in the next Office Action. Accordingly, it is respectfully requested that the withdrawal of claim 44 be reversed.

Claims 1-3, 6, 7, 12, 17, 23, 24, 34, 35, 37 and 40-43 under 35 U.S.C. § 112, first paragraph for lack of written description support. This ground of rejection is respectfully traversed.

The amendment that gave rise to this rejection is as follows:

analyzing, by the action selection module, the distribution of responses to all offers of the set of offers presented to the customers associated with the profile, wherein the analysis identifies ~~one offer~~ an order of selection and presentation of offers of the set of offers

that best fits the customer need and the business context for a given profile; and

Because the Patent Office has not previously raised this ground of rejection with respect to claim 1 it is believed that the Patent Office does not assert that there is no written description support for the identification of “one offer of the set of offers that best fits the customer need and the business context for a given profile”, but only that identification of “an order of selection and presentation of offers” is not supported. The application as-filed provides written description support for this amendment to claim 1.

As illustrated in FIG. 3 of the application as-filed (reproduced below), the present invention involves, *inter alia*, the selection and presentation of a number of actions to a customer.

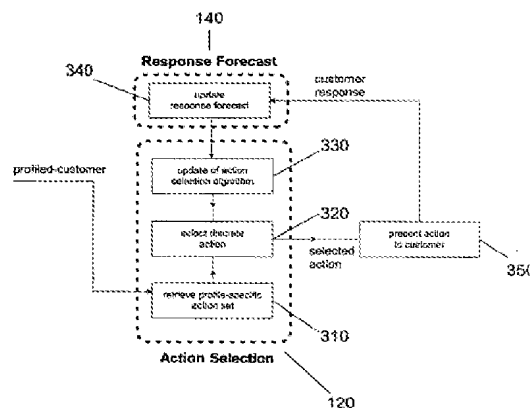


FIG. 3

As discussed in paragraph 0021 of the application as-filed, different actions can involve “the exact same questions, answers and special offers as another action but in a different order thus being a distinct, alternative action.”<sup>1</sup> Similarly, paragraph 0044 of the application as-filed describes that “[w]hile the

<sup>1</sup> Page 9, lines 4.

set of offers is the same for all 5 actions, the amenities, order of presentation, etc. may differ.”<sup>2</sup> This paragraph then describes that:

The provider aims to maximize the average profit per user for each profile. Applying embodiments of the invention over time allows the provider to know which profiles respond to which amenities, which order of presentation, etc.<sup>3</sup>

Thus, the application as-filed clearly supports the identification of an order of selection and presentation of offers that best fits the customer need and business context for a given profile. Accordingly, the written description rejection should be withdrawn.

Claims 1-3, 6, 7, 12, 17, 23, 24 and 34-43 remain rejected for obviousness under 35 U.S.C. § 103(a) in view of the combination of U.S. Patent No. 6,895,405 to Choi et al. (“Choi”), U.S. Patent Application Publication No. 2003/0033193 to Holloway et al. (“Holloway”) and U.S. Patent Application Publication No. 2001/0014868 to Herz et al. (“Herz”). This ground of rejection is respectfully traversed.

The combination of Choi, Holloway and Herz does not render Applicants’ independent claim 1 obvious because the combination does not disclose or suggest the selection and presentation of offers to different customers in different orders and that the customer responses to this presentation are analyzed to identify a selection and presentation order of offers that best fits the customer need and business context for a given profile.

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<sup>2</sup> Page 19, lines

<sup>3</sup> Page 19, lines 13-17.

The Office Action relies upon Herz for these features of independent claim 1. Specifically, the Office Action cites paragraphs 0250 and 0277 of Herz for the disclosure that the order of selection and presentation of offers differs between the plurality of customers. Paragraph 0250 relates to joint promotions (i.e., jointly promoting two different offers), and in particular to dynamically generating links between sites to “present a joint promotion unique to the user and may combine different vendors and/or their products in different ways”. There is nothing in this paragraph describing that the dynamic linking of sites involves a different order of selection and presentation of offers of a set of offers. Instead, it at best involves a link on a website directing different users to different websites, but does not affect the order of presentation of websites.

Paragraph 0277 relates to the implementation of dynamic recommendations, and particularly to the importance of an agent’s user interface when implementing such recommendations. Although this paragraphs discusses the use of data mining to “allow the sales person to identify certain correlations between the present user...optimal sales pitches[,]... [and] probable statistically predicted next responses” it does not disclose or suggest that the identified correlations are used to select and present offers in different orders.

The Office Action cites paragraph 0005 of Herz as disclosing the claimed analyzing step. This paragraph discusses, *inter alia*, tailoring products to particular shoppers, personalizing promotional material and profiling offers. Paragraph 0005, however, is completely silent with respect to the ordering of offers for selection and presentation.

It is noted that the rejection in the Office Action does not reflect the amended claim language in the analyzing step, and accordingly it is not clear if the Office Action intended to rely solely on paragraph 0005 of Herz for the disclosure of the claimed analyzing step. Regardless, there is simply no disclosure or suggestion in Herz of an analysis that “identifies an order of selection and presentation of offers of the set of offers that best fits the customer need and the business context for a given profile”.

Because Herz is silent with respect to the ordering of the selection and presentation of offers, Herz does not disclose or suggest that the order of selection and presentation differs between customers and analyzing a distribution of responses by identifying an order of selection and presentation of offers from the set of offers that best fits the customer need and the business context for a given profile as recited in claim 1.

Choi and Holloway do not remedy these deficiencies of Herz, and accordingly the combination of Choi, Holloway and Herz does not render independent claim 1 obvious. Independent claims 12 and 23 recite similar elements to those discussed above with regard to claim 1, and are patentably distinguishable over the combination of Choi, Holloway and Herz for similar reasons. Claims 2, 3, 6, 7, 17, 24, 34, 35, 37 and 40-43 are patentably distinguishable at least by virtue of their dependency. Accordingly, the obviousness rejection of these claims should be withdrawn.

If there are any questions regarding this amendment or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned.

If necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response, and please charge any deficiency in fees or credit any overpayments to Deposit Account No. 05-1323, Docket No. 106109.62202US.

Respectfully submitted,

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